

UNITED STATES BANKRUPTCY COURT  
EASTERN DISTRICT OF TENNESSEE  
SOUTHERN DIVISION

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In re:	)	
KENNETH RUSSELL CHEEK	)	
	)	Chapter 13
	)	
Debtor.	)	Case # 18-13446-SDR
	)	
KENNETH RUSSELL CHEEK	)	Adversary Proceeding #:
	)	
Plaintiff,	)	
	)	
vs.	)	
	)	
FIRST CITIZENS BANCSHARES, INC.	)	
d/b/a FIRST CITIZENS NATIONAL BANK	)	
	)	
Defendant.	)	

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COMPLAINT SEEKING DAMAGES AND ATTORNEYS FEES  
FOR VIOLATION OF AUTOMATIC STAY

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COMES NOW Plaintiff Kenneth Russell Cheek, by and through his counsel, and  
for cause of action would state unto this Honorable Court as follows:

1. On August 2, 2018 the Debtor/Plaintiff commenced a voluntary case  
under Chapter 13 of the Bankruptcy Code, by filing a petition which was assigned case  
number 18-13446-SDR.

2. This Court has jurisdiction to hear this matter under 28 U.S.C. 1334, since  
it arises in that case and is related to it.

3. The Defendant was named in Schedule D of Debtor/Plaintiff's petition as a creditor with security. The Defendant was a creditor of Debtor/Plaintiff by virtue of a home equity line of credit on his 2002 double-wide mobile home.

4. Despite the bankruptcy filing, Defendant thereafter continued sending billing statements to Debtor/Plaintiff.

5. On October 23, 2018, the undersigned counsel for the Debtor/Plaintiff sent a first class letter to the Defendant, informing it once again of the filing of the petition and informing it that continued dunning would be in violation of section 362(a). A copy of that letter is attached hereto as Exhibit A.

6. Thereafter, Defendant again sent billing statements, dated 11/01/2018 and 12/02/2018 to Debtor/Plaintiff at his home address, copies of which are attached as Exhibit B.

WHEREFORE, PREMISES CONSIDERED, Debtor/Plaintiff prays that this Honorable Court enter an Order:

1. Declaring the Defendant guilty of civil contempt of court for violation of the automatic stay of 11 U.S.C. 362(a);

2. Barring the Defendant from further acts in violation of the automatic stay or, when applicable, the discharge injunction;

3. Awarding Debtor/Plaintiff punitive damages for the Defendant's willful disregard of the automatic stay, as authorized by 11 U.S.C. 362(h);

4. Awarding Debtor/Plaintiff reasonable attorneys fees and taxing Defendant with the costs of this matter;

5. For general relief.

Respectfully Submitted,

KENNETH RUSSELL CHEEK  
Debtor/Plaintiff by Attorney

LAW OFFICES OF ROD MILLER, P.C.

/s/ Rodney Craig Miller  
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